



AGRICULTURAL ADVISORY COMMITTEE

December 15, 2016

The Honorable Roger Berliner
Montgomery County Council President
100 Maryland Avenue
Rockville, MD 20850

Dear Council President Berliner:

Bill 37-16- Taxation-Development Impact Tax-
Transportation and Public School Improvements

The AAC is very appreciative that the Council approved an amendment to Bill 37-16 that exempts farm tenant dwellings from the Transportation improvements component of the Development Impact Tax. Exempting farm tenant dwellings will be helpful for farmers as they continue to address the need and costs for housing of on-farm workers.

Indeed, it is important to recognize the future of farming in Montgomery County will depend on the farmer's ability to transfer the farm to their children and grandchildren for the next generation of County farmers. Frederick County recognizes this critical aspect of farming continuity as they specifically amended their development impact tax Section 1-22-7. to exempt the impact fee on farm lots for both children and grandchildren as defined on the attached pages. The AAC would like to work with the Council to explore whether this development impact policy of Frederick County could be applied in Montgomery County.

The AAC thanks the County Council for this opportunity to present our views on Bill 37-16 and please let us know if you have any questions.

Sincerely,

David Weitzer, Chairman



§ 1-22-7. EXEMPTIONS/WAIVERS.

- (A) Filing of application. Petitions for waivers from specific development impact fees shall be filed with the county on forms provided by the county.
- (B) Effect of grant of exemption. If an exemption from the application of the provisions of this chapter is authorized by the terms of a specific impact fee ordinance, the county shall not be required to provide any funds equal to the amount of any development impact fee which would have been due without such exemption.
- (C) Effect of grant of waiver. If the county grants a waiver in whole or in part of development impact fees otherwise due, the amount of the development impact fees waived shall be provided by the county from nondevelopment impact fee funds, and such funds shall be deposited to the appropriate development impact fee account within a reasonable period of time consistent with the applicable county capital improvements program.
- (D) Development agreements. Nothing herein shall be deemed to limit the county's authority or ability to enter into development agreements with applicants for new development which may provide for dedication of land, payments in lieu of development impact fees, or actual infrastructure improvements. Such development agreements may allow offsets against development impact fees for contributions made or to be made in the future in cash, or by taxes or assessments or dedication of land or by actual construction of all or part of a public facility by the affected property owner.
- (E) Affordable housing impact fee waiver program. The county shall establish an affordable housing impact fee waiver program. The county shall separately provide policies and guidelines for this affordable housing impact fee waiver program. Waivers under this program shall be limited to the funds the county appropriates for this program.
- (F) Exemption for affordable housing program.
 - (1) Residential development is exempt from the payment of a development impact fee if:
 - (a) The residential development is financed, in whole or part, by public funding that requires mortgage restrictions or recorded covenants restricting the rental or sale of the housing units to lower income residents in accordance with specific government program requirements or
 - (b) The residential development is developed by a nonprofit organization that:
 - 1. Has been exempt from federal taxation under § 501(c)(3) of the Internal Revenue Code for a period of at least 3 years; and
 - 2. Requires the homebuyer to participate in the construction of the residential development; and
 - (2) The initial purchaser of the residential development may not have an income greater than 60% of the Frederick County area median income.
 - (3) Rental housing must be financed by public funding with mortgage restrictions that include:
 - (a) A requirement that the residential units must be part of an affordable housing program for at least 25 years; and
 - (b) Each residential unit shall be occupied by a household with initial income no greater than 60% of the Frederick County area median income.

- (4) If the residential development fails to continue to satisfy the requirements for this development impact fee exemption, the owner of the property shall pay the development impact fee immediately.
 - (G) Impact fee waiver for farm lots.
 - (1) Definitions. For the purposes of this subsection, the following terms shall have the designated definitions:
 - CHILD. A person's offspring, whether natural or legally adopted.
 - FARM. A parcel of land not less than 25 acres in size on which an agricultural activity, as defined in § 1-19-11.100 of the Zoning Ordinance, is being actively conducted as of the date of application for the farm lot waiver.
 - FARMER. A person who owns and operates a farm.
 - FARM LOT. A lot which has been legally subdivided from a farm by a farmer.
 - GRANDCHILD. The offspring of a child, as defined herein, whether natural or legally adopted.
 - (2) Impact fees collected under this chapter shall be waived for farm lots if the following conditions are met at the time that the waiver is applied for:
 - (a) The farm lot must have been transferred directly from a farmer to the farmer's child or grandchild; and
 - (b) The farmer's child or grandchild must show proof that he or she currently provides support to the farm, whether by physical or administrative work, or by financial support.
 - (3) If the farmer's child or grandchild sells or otherwise transfers the farm lot (except by reason of his or her death) within 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied, then the farmer's child or grandchild shall be obligated to repay the total amount of the waived impact fees to the county.
 - (4) If the farmer's child or grandchild sells or otherwise transfers the farm lot more than 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied, then the obligation to repay the waived impact fees to the county shall not apply.
 - (5) The obligation to repay the waived impact fees to the county shall be memorialized by a recorded lien on the farm lot, which shall, by its terms, expire 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied.
- (Ord. 00-30-272, 12-21-2000; Ord. 10-25-560, 11-16-2010; Ord. 14-07-662, 6-17-2014; Ord. 14-19-674, 9-25-2014; Ord. 14-23-678, 11-13-2014)